

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

DANA AUSTIN and RENE YELL,

Plaintiffs,

v.

No. 12-cv-00232

DISTRIBUTION EXPRESS, INC. and  
WILLIAM NICHOLS VIROSTKO,

Defendants.

**NOTICE OF REMOVAL  
TO THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

To: UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

Defendants Distribution Express, Inc. and William Nichols Virostko, by and through their attorneys, Guebert Bruckner P.C., and pursuant to 28 U.S.C. §1446 and D.N.M.LR-Civ. 81.1 NMRA, move this Court to allow removal of the above-entitled action to the United States District Court for the District of New Mexico.

1. On February 2, 2012, a Complaint was filed in the Sixth Judicial District Court, County of Luna, State of New Mexico. The case was docketed as Cause No. D-619-CV-2012-00044. The Plaintiffs are Dana Austin and Rene Yell.

2. In accordance with D.N.M.LR-Civ. 81.1(a) NMRA, attached hereto are copies of all pleadings served upon Defendants in Sixth Judicial District Court No. D-619-CV-2012-00044. (**Exhibit A**)

<b>Notice of References Cited</b>		Application/Control No.	Applicant(s)/Patent Under Reexamination MUKAMOLOVA ET AL.	
		Examiner S. Devi, Ph.D.	Art Unit 1645	Page 2 of 2

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-			
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R	~				
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Illustrated Stedman's Medical Dictionary. 24 <sup>th</sup> Edition, Williams and Wilkins, London. page 707, 1982
	V	Mukamalova et al. Arch. Microbiol. 172: 9-14, July 1999
	W	Mukamalova et al. Antonie van Leeuwenhoek 67: 289-295, 1995
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

12. Defendants, upon filing of this Notice of Removal, are giving written notice of the filing to Plaintiffs as required by 28 U.S.C. §1446(d), and are filing a copy of this Notice of Removal with the Clerk of the Sixth Judicial District Court, County of Luna, State of New Mexico, the Court from which this action is removed.

13. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

WHEREFORE, Defendants pray that the above-entitled action be removed from the Sixth Judicial District Court, County of Luna, State of New Mexico, to this Court.

GUEBERT BRUCKNER P.C.

By /s/ Christopher J. Supik  
Terry R. Guebert  
Christopher J. Supik  
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[csupik@guebertlaw.com](mailto:csupik@guebertlaw.com)  
Attorneys for Defendants

This is to certify that a copy of the foregoing Notice of Removal to United States District Court for the District of New Mexico was faxed and mailed to:

Robert Trenchard, Esq.  
Trenchard & Hoskins, Attorneys at Law  
414 Executive Center Blvd., Ste. 105  
El Paso, TX 79902-1015  
(915) 533-2837  
Fax: (915) 533-3745  
*Attorney for Plaintiff*

and filed via facsimile, as an attachment to a Notice of Filing of Notice of Removal, with:

Clerk of the Court  
Sixth Judicial District Court  
855 South Platinum  
Deming, NM 88030-4729  
Fax: (575) 543-1605

this 6<sup>th</sup> day of March, 2012.

/s/ Christopher J. Supik  
Terry R. Guebert  
Christopher J. Supik  
*Attorneys for Defendants*

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